IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 332 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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ADARSH EDUCATION TRUST THR'PRESIDENT D.L.RAM - Petitioner(s)

Versus

NATIONAL COUNCIL FOR TEACHERS EDUCATION & 2 - Respondent(s)

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Appearance :

MR HJ NANAVATI for Petitioner(s) : 1,
RULE NOT RECD BACK for Respondent(s) : 1,
DS AFF.NOT FILED (R) for Respondent(s) : 1,
MR PRAKASH K JANI for Respondent(s) : 1,
GOVERNMENT PLEADER for Respondent(s) : 2,
RULE SERVED BY DS for Respondent(s) : 2 - 3.
MR AR THACKER for Respondent(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 08/02/2006

ORAL JUDGMENT

1. By way of this petition under Article 226 of the

Constitution of India, petitioner has prayed for an appropriate writ, direction and/or order quashing and setting aside the order dated 9-8-2005 issued by the Registrar, Saurashtra University asking the petitioner to get back the amount of fees paid by the petitioner trust for grant of affiliation of a B.Ed. College by the University. The petitioner has also further prayed for a declaration that the University is not bound to follow the directives issued by the State Government in the matter of grant of affiliation to the College being Examining Body. The petitioner has also further prayed for a declaration that grant or refusal of No Objection Certificate (NOC) by the State Government and/or University is not conclusive for the NCTE for taking decision to either grant or refuse to grant recognition to the petition institution for starting B.Ed. College at Junagadh.

2. It is the case of the petitioner that as the petitioner – trust intends to start B.Ed. College within the local area of the Saurashtra University and therefore, affiliation of the Saurashtra University was necessary and the petitioner trust submitted an application to the University for grant of affiliation in

the prescribed format and the said application was made on 17-6-2005. It is the case of the petitioner that surprisingly and shockingly in a cyclostyled pre-typed order dated 9-8-2005, petitioner is informed that as the State Government has directed the university not to grant NOC to new B.Ed. Colleges, the university is required to refund the amount of fees for affiliation paid by the petitioner. Therefore, the petitioner has approached this court by way of present Special Civil Application for the aforesaid reliefs.

3. In response to the notice issued by this court, Shri PK Jani, learned advocate appears for the NCTE and an affidavit-in-reply is filed on behalf of the NCTE. It is submitted in the affidavit-in—reply that the existing NCTE Regulations, 2002 are repealed and are replaced by NCTE (Recognition, Norms & Procedure) Regulations, 2005 with effect from 13-1-2006 and in new regulation, the requirement of submission of NOC/endorsement of the State Government by the applicant is done away and the applicant – institution are now relieved of getting the opinion of the State Government in the form of NOC/endorsement and as per the new Regulation, NCTE itself will obtain the opinion of the State Government

under Resolution 7(3). It is further submitted in the affidavit-in-reply that so far as the question of affiliation by the respondent university is concerned, Section 14(6) of the NCTE Act provides that the university shall grant affiliation after grant of recognition by NCTE and it is also provided that the university shall withdraw the affiliation in case of refusal of recognition by the NCTE and therefore, it would be unnecessary to issue any directions to the university to consider the application for affiliation dated 17-6—2005.

4. Heard learned advocates appearing for the parties.

5. Identical question came to be considered by this court in group of Special Civil Applications being Special Civil Application No.No.612 of 2006 and other cognate matters and it is held by this court that the pending applications which are now to be considered by the NCTE for recognition from 2006-2007, are required to be considered considering the provisions of new NCTE (Recognition, Norms & Procedure) Regulations, 2005 and under the said Regulation, the requirement of submission of NOC/endorsement of the State Government is not there

and as per the new Regulations, the NCTE itself will obtain the opinion of the State Government under Regulation 7(3). Under the circumstances, the NCTE is directed to consider the the application submitted by the petitioner in light of the NCTE (Recognition, Norms & Procedure) Regulations, 2005 and after following necessary procedure as required under Regulation 7 and considering the judgment and order passed by this court dated 2-2-2006 rendered in Special Civil Application No.No.612 of 2006 and other allied matters.

6. So far as the affiliation by the respondent-university is concerned, the same is required to be considered only after the NCTE grants recognition as per Section 14(6) of the NCTE Act. The university is required to grant affiliation only after grant of recognition by the NCTE. Under the circumstances, if ultimately the NCTE grants recognition in favour of the petitioner, it will be open for the petitioner to submit an appropriate application for grant of affiliation to the respondent university and the same shall be dealt with by the university in accordance with law and on merits and therefore, at present no direction is required to be issued against respondent No.3 for grant of affiliation.

7. For the reasons stated above, the petition partly succeed. Parties are directed to act as stated above. Rule is made absolute to the aforesaid extent. However, there will be no order as to costs.

(M.R.SHAH,J)

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